



(4310-4J-P)

DEPARTMENT OF THE INTERIOR

BUREAU OF INDIAN AFFAIRS

Federated Indians of Graton Rancheria – Liquor Control Statute

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: This notice publishes the Federated Indians of Graton Rancheria – Liquor Control Statute (Ordinance). The Ordinance regulates and controls the sale, consumption and possession of liquor within the Graton Rancheria’s Indian country. This Ordinance will increase the ability of the tribal government to control the distribution and possession of liquor within its Indian country and at the same time will provide an important source of revenue and strengthening of the tribal government and the delivery of tribal services.

DATES: *Effective Date:* This Act is effective as of [Insert date of publication in the FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Sophia Torres, Tribal Government Specialist, Pacific Regional Office, Bureau of Indian Affairs, 2800 Cottage Way – Room W-2820, Sacramento, CA 95825; Telephone (916) 978-6073; Fax (916) 978-6099; or De Springer, Office of Indian Services, 1849 C Street, N.W., MS/4513/MIB, Washington, DC 20240; Telephone (202) 513-7626; Fax (202) 208-5113.

SUPPLEMENTARY INFORMATION: Pursuant to the Act of August 15, 1953; Public Law 83-277, 67 Stat. 586, 18 U.S.C. 1161, as interpreted by the Supreme Court in *Rice v. Rehner*, 463

U.S. 713 (1983), the Secretary of the Interior shall certify and publish in the **Federal Register** notice of adopted liquor ordinances for the purpose of regulating liquor transactions in Indian country. The Federated Indians of Graton Rancheria Tribal Council adopted the Liquor Control Statute, by Tribal Council Resolution No. 12-07, on April 13, 2012.

This notice is published in accordance with the authority delegated by the Secretary of the Interior to the Assistant Secretary – Indian Affairs. I certify that the Tribal Council duly adopted the Liquor Control Statute on April 13, 2012.

Date: 11/27/2012

Kevin Washburn
Assistant Secretary – Indian Affairs

The Federated Indians of Graton Rancheria Liquor Control Statute reads as follows:

CHAPTER ONE - INTRODUCTION

SECTION:

1.1 Authority. This Statute is enacted pursuant to the Act of August 15, 1953 (Pub. L. 83-277, 67 Stat. 588, 18 U.S.C. 1161) and by powers vested in the Tribal Council of the Federated Indians of Graton Rancheria (“Tribal Council”) to enact laws, policies, and regulations as authorized under Article VI, Section 1 of the Constitution of the Federated Indians of Graton Rancheria (the "Constitution"), adopted December 2002.

1.2 Purpose. The purpose of this Statute is to regulate and control the possession, sale, manufacture and distribution of liquor within Lands Under the Jurisdiction of the Federated Indians of Graton Rancheria (“Tribe”), including the Reservation of the Federated Indians of Graton Rancheria (“Reservation”), in order to permit alcohol sales by tribally owned and operated enterprises and private lessees, and at tribally approved special events. Enactment of a liquor control statute will help provide a source of revenue for the continued operation of the tribal government, the delivery of governmental services, and the economic viability of tribal enterprises.

1.3 Short Title. This Statute shall be known and cited as the “Liquor Control Statute.”

1.4 Jurisdiction. This Statute shall apply to all lands now or in the future under the governmental authority of the Tribe, including, but not limited to, the Reservation and any lands that may be taken into trust for the Tribe.

1.5 Application of 18 U.S.C. §1161. By adopting this Statute, the Tribe hereby regulates the sale, distribution, and consumption of liquor while ensuring that such activity conforms with all applicable laws of the State of California as required by 18 U.S.C. § 1161 and the United States.

1.6 Declaration of Public Policy; Findings. The Tribal Council enacts this Statute, based upon the following findings:

(a) The distribution, possession, consumption and sale of liquor on the Tribe’s Reservation is a matter of special concern to the Tribe.

(b) The Tribe is the beneficial owner of the Reservation, upon which the Tribe plans to construct and operate a gaming facility and related entertainment and lodging facilities.

(c) The Tribe's gaming facility will serve as an integral and indispensable part of the Tribe's economy, providing revenue to the Tribe's government and employment to tribal citizens and others in the local community.

(d) Federal law, as codified at 18 U.S.C. §§ 1154 and 1161, currently prohibits the introduction of liquor into Indian country, except in accordance with State law and the duly enacted law of the Tribe.

(e) The Tribe recognizes the need for strict control and regulation of liquor transactions on Lands under the Tribe's Jurisdiction because of potential problems associated with the unregulated or inadequately regulated sale, possession, distribution, and consumption of liquor.

(f) Regulating the possession, sale, distribution and manufacture of liquor within Lands under the Tribe's Jurisdiction is also consistent with the Tribe's interest in ensuring the peace, safety, health, and general welfare of the Tribe and its citizens.

(g) Tribal control and regulation of liquor on Lands under the Tribe's Jurisdiction is consistent with the Tribe's custom and tradition of controlling the possession and consumption of liquor on tribal lands and at tribal events.

(h) The purchase, distribution, and sale of liquor on Lands under the Tribe's Jurisdiction shall take place only at duly licensed (i) tribally owned enterprises, (ii) other enterprises operating pursuant to a lease with the Tribe, and (iii) tribally-sanctioned events.

(i) The sale or other commercial manufacture or distribution of liquor on Lands under the Tribe's Jurisdiction, other than sales, manufacture, and distributions made in strict compliance with this Statute, is detrimental to the health, safety, and general welfare of the citizens of the Tribe, and is prohibited.

CHAPTER TWO – DEFINITIONS

SECTION:

2.1 Definitions. As used in this Statute, the terms below are defined as follows:

(a) *Alcohol* means ethyl alcohol, hydrated oxide of ethyl, or spirit of wine, in any form, and regardless of source or the process used for its production.

(b) *Alcoholic beverage* means all alcohol, spirits, liquor, wine, beer and any liquid or solid containing alcohol, spirits, liquor, wine, or beer, and which contains one-half of one percent or more of alcohol by volume and that is fit for human consumption, either alone or when diluted, mixed, or combined with any other substance(s).

(c) *Compact* means the tribal-state Compact between the State of California and the Tribe that governs the conduct of class III gaming activities on the Reservation pursuant to the Indian Gaming Regulatory Act.

(d) *License* means, unless otherwise stated, a license issued by the Tribe in accordance with this Statute.

(e) *Liquor* means any alcoholic beverage, as defined under this Section.

(f) *Person* means any individual or entity, whether Indian or non-Indian, receiver, assignee, trustee in bankruptcy, trust, estate, firm, corporation, partnership, joint corporation, association, society, or any group of individuals acting as a unit, whether mutual, cooperative, fraternal, non-profit or otherwise, and any other Indian tribe, band or group. The term shall also include the businesses of the Tribe.

(g) *Sale and sell* means the transfer for consideration of any kind, including by exchange or barter.

(h) *State* means the State of California.

(i) *Lands under the Tribe's Jurisdiction* means and includes all lands now or in the future under the governmental authority of the Tribe, including, but not limited to, the Reservation and any lands that may be taken into trust for the Tribe.

(j) *Reservation* means all lands held in trust by the United States for the benefit of the Tribe pursuant to the Graton Rancheria Restoration Act (Pub. L. 106-568, 25 U.S.C. § 1300n).

CHAPTER THREE - LIQUOR SALES, POSSESSION, & MANUFACTURE

SECTION:

3.1 Possession of Alcohol. The introduction and possession of alcoholic beverages shall be lawful within Lands under the Tribe's Jurisdiction; provided that such introduction or possession is in conformity with the laws of the State.

3.2 Retail Sales of Alcohol. The sale of alcoholic beverages shall be lawful within Lands under the Jurisdiction of the Tribe; provided that such sales are in conformity with the laws of the State and are made pursuant to a license issued by the Tribe.

3.3 Manufacture of Alcohol. The manufacture of beer and wine shall be lawful within Lands under the Jurisdiction of the Tribe, provided that such manufacture is in conformity with the laws of the State and pursuant to a license issued by the Tribe.

3.4 Age Limits. The legal age for possession or consumption of alcohol within Lands under the Jurisdiction of the Tribe shall be the same as that of the State, which is currently 21 years. No person under the age of 21 years shall purchase, possess or consume any alcoholic beverage. If there is any conflict between State law and the terms of the Compact regarding the age limits for alcohol possession or consumption, the age limits in the Compact shall govern for

purposes of this Statute.

CHAPTER FOUR - LICENSING

SECTION:

4.1 Licensing. The Tribal Council shall have the power to establish procedures and standards for tribal licensing of liquor sales within Lands under the Jurisdiction of the Tribe, including the setting of a license fee schedule, and shall have the power to publish and enforce such standards; provided that no tribal license shall issue except upon showing of satisfactory proof that the applicant is duly licensed by the State. The fact that an applicant for a tribal license possesses a license issued by the State shall not provide the applicant with an entitlement to a tribal license. The Tribal Council may in its discretion set standards which are more, but in no case less, stringent than those of the State.

CHAPTER FIVE - ENFORCEMENT

SECTION:

5.1 Enforcement. The Tribal Council shall have the power to develop, enact, promulgate and enforce regulations as necessary for the enforcement of this Statute and to protect the public health, welfare and safety of the Tribe and Lands under the Jurisdiction of the Tribe, provided that all such regulations shall conform to and not be in conflict with any applicable tribal, federal or state law. Regulations enacted pursuant to this Statute may include provisions for suspension or revocation of tribal liquor licenses, reasonable search and seizure provisions, and civil and criminal penalties for violations of this Statute to the full extent permitted by federal law and consistent with due process.

- (a) Tribal law enforcement personnel and security personnel duly authorized by the

Tribal Council shall have the authority to enforce this Statute by confiscating any liquor sold, possessed, distributed, manufactured or introduced within Lands under the Jurisdiction of the Tribe in violation of this Statute or of any regulations duly adopted pursuant to this Statute.

(b) The Tribal Council shall have the exclusive jurisdiction to hold hearings on violations of this Statute and any procedures or regulations adopted pursuant to this Statute; to promulgate appropriate procedures governing such hearings; to determine and enforce penalties or damages for violations of this Statute; and to delegate to a subordinate hearing officer or panel the authority to take any or all of the foregoing actions on its behalf.

CHAPTER SIX - TAXES

SECTION:

6.1 Taxation. Nothing contained in this Statute is intended to, nor does in any way, limit or restrict the Tribe's ability to impose any tax upon the sale or consumption of alcohol. The Tribe retains the right to impose such taxes by appropriate statute to the full extent permitted by federal law.

CHAPTER SEVEN - MISCELLANEOUS PROVISIONS

SECTION:

7.1 Sovereign Immunity Preserved. Nothing contained in this Statute is intended to, nor does in any way, limit, alter, restrict, or waive the sovereign immunity of the Tribe or any of its agencies, agents or officials from unconsented suit or action of any kind.

7.2 Conformance with Applicable Laws. All acts and transactions under this Statute shall be in conformity with the Compact and laws of the State to the extent required by 18 U.S.C. § 1161 and with all Federal laws regarding alcohol in Indian Country.

7.3 Effective Date. This Statute shall be effective as of the date on which the Secretary of Interior certifies this Statute and publishes the same in the Federal Register.

7.4 Repeal of Prior Acts. All prior enactments of the Tribal Council, including tribal resolutions, policies, regulations, or statutes pertaining to the subject matter set forth in this Statute are hereby rescinded.

7.5 Amendments. This Statute may only be amended pursuant to an amendment duly enacted by the Tribal Council and certification by the Secretary of the Interior and publication in the Federal Register, if required.

7.6 Severability and Savings Clause. If any part or provision of this Statute is held invalid, void, or unenforceable by a court of competent jurisdiction, such adjudication shall not be held to render such provisions inapplicable to other persons or circumstances. Further, the remainder of the Statute shall not be affected and shall continue to remain in full force and effect.

[FR Doc. 2012-30003 Filed 12/11/2012 at 8:45 am; Publication Date: 12/12/2012]